



## RAILROAD COMMISSION OF TEXAS

February 7, 2012

Administrator Lisa Jackson  
Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

Submitted via e-mail to [ORD.Docket@epa.gov](mailto:ORD.Docket@epa.gov)

Re: EPA Draft Report on Ground Water Contamination near Pavillion, Wyoming  
Docket ID No. EPA-HQ-ORD-2011-0895

Dear Administrator Jackson:

We are writing in response to the U.S. Environmental Protection Agency's (EPA's) referenced *Draft Report on Ground Water Contamination near Pavillion, Wyoming*, released on December 8, 2011 (Draft Report).

In the Draft Report, EPA asserted it had found a "likely association" between the ground water quality issues in the Pavillion, Wyoming area with the practice of hydraulic fracturing. However, it appears EPA came to this conclusion based on limited and questionable data; dismissed reports, including a report from the United States Geological Survey of historical problems with ground water quality in the Pavillion area prior to any hydraulic fracturing activity in the area; and an examination of hydraulic fracturing as the only potential source of the poor quality deeper ground water in the Pavillion area. The EPA may have avoided such flaws had it subjected the Draft Report to external, independent, scientific peer review, including a review by the State of Wyoming's own environmental and oil and gas experts.

We strongly urge EPA to classify the Draft Report as a "highly influential scientific assessment," as requested by Senators James Inhofe of Oklahoma, Lisa Murkowski of Alaska, Mike Crapo of Idaho, Jeff Sessions of Alabama, John Boozman of Arkansas, John Cornyn of Texas, Tom Coburn of Oklahoma, Marco Rubio of Florida, Pat Roberts of Kansas, and Roger Wicker of Mississippi in a letter dated January 20, 2012. The Office of Management and Budget at the White House (OMB) issued clear guidelines in the "Final Information Quality Bulletin for Peer Review" regarding this type of report, stating that a scientific assessment should be considered "highly influential" if, among other things, it is determined that the dissemination is novel, controversial or precedent-setting. We believe this report is definitely both novel and controversial since it is the first time a governmental body has put forth an assessment that attempts to link groundwater contamination to hydraulic fracturing. Once this classification is

applied, the Draft Report will be subject to stringent peer review requirements, which we believe is of paramount importance.

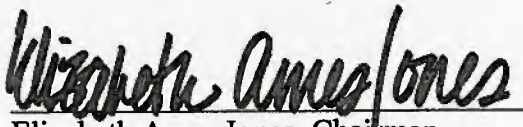
In addition, the numerous, and somewhat overlapping, studies initiated by various federal entities, including the Department of Energy, the Department of the Interior, the Center for Disease Control and Prevention, the Agency for Toxic Substances and Disease Registry, and the Securities and Exchange Commission, not to mention EPA's own national study of hydraulic fracturing, have elevated the issue of hydraulic fracturing to such a fever pitch that it further warrants the Draft Report be classified as a "highly influential scientific assessment," ensuring OMB's memoranda on information quality and peer review is closely followed.

We understand the Draft Report is preliminary, but EPA's language in the Draft Report, on its webpage, and in responses to media questions, strongly insinuates that hydraulic fracturing is the only possible reason for the poor quality of water in the Pavillion area. Unfortunately, this seems to be a repeat of the template EPA followed in the Range Resources case: first, make a "preliminary," unproven assertion that will be perceived by the media and the public as a condemnation of hydraulic fracturing, then quietly back away once the science has proved the assertions to be false.

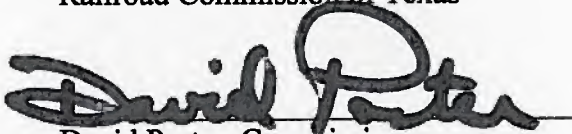
Our strong regulatory regime in Texas has helped us avoid a single proven case of groundwater contamination occurring as a result of hydraulic fracturing. We continue to conduct extensive oversight and monitoring of all drilling practices in our state. If we find clear scientific evidence of safety or environmental issues, we will modify our regulatory programs to ensure any new issues are addressed. However, such adjustments are not warranted unless based on science and fact.

We appreciate the extension until March 12, 2012 to comment on the Draft Report and look forward to reviewing all of the background information not included in the Draft Report.

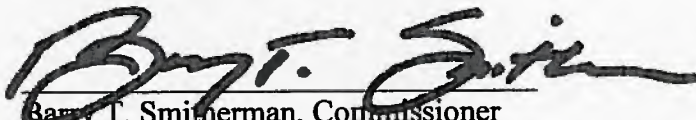
Sincerely,



Elizabeth Ames Jones, Chairman  
Railroad Commission of Texas



David Porter, Commissioner  
Railroad Commission of Texas



Barry T. Smitherman, Commissioner  
Railroad Commission of Texas